



**HILLSBOROUGH COUNTY ECONOMIC DEVELOPMENT DEPARTMENT  
MINORITY & DISADVANTAGED BUSINESS DEVELOPMENT  
OPERATIONAL PROCEDURES**

**SUBJECT: PROCEDURES FOR IMPLEMENTATION OF THE HILLSBOROUGH COUNTY DISADVANTAGED MINORITY AND DISADVANTAGED WOMEN BUSINESS ENTERPRISE PROGRAM AND THE SMALL BUSINESS ENCOURAGEMENT PROGRAM**

**EFFECTIVE DATE: September 8, 2016**

**REVISION DATE: January 3, 2017**

**VERSION NUMBER 10**

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**POLICY STATEMENT**

A. It is the policy of the Hillsborough County Board of County Commissioners (“BOCC”) to encourage the participation of all responsible businesses in Hillsborough County’s contracting and procurement activities.

B. Hillsborough County desires to provide incentives for the participation of DM/DWBEs in the County’s procurement and contracting activities for so long as these businesses are experiencing the effect of past discrimination and encourage the participation of all responsible Hillsborough County small businesses in the County’s procurement and contracting activities.

C. Pursuant to Administrative Order #13-01, the Hillsborough County Economic Development Department hereby establishes procedures (the “Operational Procedures”) for the implementation of the Hillsborough County Disadvantaged Minority/Disadvantaged Women Business Enterprise Program (“DM/DWBE”) and the Small Business Encouragement (“SBE”) Program (collectively, the “Programs”) in accordance with Board of County Commissioner Resolution No. R06-264, as amended by Resolution No. R11-020, Resolution No. R12-156, Resolution No. R15-105 and Resolution 16-120 (hereinafter, collectively, the “Resolutions”).

## **APPLICATION**

These Operational Procedures shall apply to all Invitations to Bid and Requests for Proposals advertised by the County on or after the Effective Date hereof or advertised prior to the Effective Date but which remain unopened as of the Effective Date. Administrative Order 06-08 shall apply to all Invitations to Bids and Requests for Proposals, which were advertised and opened before the Effective Date of these Procedures.

## **PROCEDURES PART I DM/DWBE/SBE PROGRAMS**

### **SECTION 1 – GENERAL REQUIREMENTS**

- 1.1 The Affirmative Action Program, adopted by the BOCC, provides that contractors and vendors doing business with the County must comply with all applicable civil rights laws and regulations. Failure on the part of a bidder to meet these requirements may result in rejection of the Bid.
- 1.2 Contractors bear the sole responsibility to immediately review and otherwise familiarize themselves with the requirements of the DM/DWBE and SBE Programs. Any questions posed by contractors and vendors with regard to any of the requirements of these Programs should be referred to the Hillsborough County Economic Development Department.

### **SECTION 2 - DEFINITIONS**

Any term defined in Appendix A, attached hereto and incorporated herein by reference, shall have the meaning ascribed therein for purposes of these Operational Procedures.

### **SECTION 3 – LIMITED WAIVER OF DM/DWBE REQUIREMENTS**

At any time prior to the County's solicitation of an Invitation to Bid and/or Request for Proposal, the County Administrator, subject to BOCC approval, or the BOCC at any time, may grant a partial or complete waiver of the DM/DWBE requirements for any contract in which it is demonstrated that minority participation cannot be achieved as required by the DM/DWBE Program without detriment to public health, safety or welfare, including adverse financial impact to the County.

### **SECTION 4 - DISCRIMINATION PROHIBITED**

Pursuant to Hillsborough County Human Rights Ordinance (#00-37, as amended by #14-30), no person shall be excluded from participation in, denied the benefits of, or otherwise discriminated against in connection with the award and performance of any Hillsborough County contract or procurement activity, on the grounds of race, color, religion, national origin, sex, age, marital status, disability, sexual orientation, or gender identity or expression. Complaints may be filed with the Equal Opportunity Administrator's Office.

## **SECTION 5 – PROGRAM ADMINISTRATION**

The County Administrator has the general responsibility for administering the DM/DWBE and SBE Programs in accordance with the Resolutions. The County Administrator hereby delegates to the Economic Development Department Director, or his or her designee, the day-to-day development, management, and implementation of the DM/DWBE and SBE Programs. In addition, for those projects that are, in whole or in part, funded by federal grants, the County Administrator shall amend administrative procedures to be consistent with the pertinent federal grant regulations or laws. Duties assigned to specific departments will be applicable to successor County Departments.

## **SECTION 6 - DM/DWBE & SBE PROGRAM DEVELOPMENT**

- 6.1 The Programs are intended and designed to assist DM/DWBEs and SBE's in overcoming their economic disadvantage by providing such assistance as may be necessary and appropriate to enable these Businesses to secure County contracts, and to strengthen their financial and managerial skills to enable them to compete in the private sector.
- 6.2 For the purpose of developing the Programs, the County has adopted the business development concept referenced in the Business Opportunity Development Reform Act of 1988 (P.L. 100-656, 301 et sec.), which establishes two program stages: a Developmental Stage and a Transitional Stage.
  - 6.2.1 Developmental Stage of Program Participation – An eligible Program participant (i.e., a Business that is Certified and/or Registered in one or more of the County Programs), may receive:
    - a. Training in the County's procurement requirements and information regarding the availability of County contracting work, if applicable;
    - b. Assistance in identifying financial resources;
    - c. Bonding exemptions as permitted by Florida Statute and the Laws of Florida;
    - d. Management skills training for the purpose of upgrading performance standards. Such training may be provided through cost-free or cost-subsidized training programs offered by public and private agencies working with programs for economic development, and may include assistance with the development of business plans; and

- e. Business activity targeting assistance and training, i.e. Mentor/Protégé, matchmaker and partnering assistance from both Minority and non-Minority Businesses.

6.2.2 Transitional Stage of Program Participation – An eligible Program participant in this stage will receive assistance similar to that provided in the Developmental Stage. In addition, such participants will be encouraged to attain the business goals/activities targeted in their business plans, (for example, increased revenues and/or contracts in the public and private sectors). DM/DWBE participants in this phase are expected to transition into the Small Business Enterprise Program which is described in Part III of these Operational Procedures.

## **SECTION 7 – GOALS**

### **7.1 DM/DWBE EMPLOYMENT**

A goal of 17.9% has been set for Minority group employment and 6.9% for Women on County Construction contracts regardless of the funding source. These goal levels are consistent with the levels established by the U.S. Department of Labor for this Standard Metropolitan Statistical Area (SMSA). Contractors awarded such Construction projects are encouraged to achieve these Minority and Women employment goals when vacancies occur within their workforce.

### **7.2 DM/DWBE GOAL ATTAINMENT CREDIT**

Certification as to DM/DWBE status is generally obtained within thirty (30) Days of completion of the application requirements. In order to be counted toward goal attainment and in order to participate in the County's DM/DWBE Program, the applicable DM/DWBE must be certified, pursuant to Part II Section 1 of these Operational Procedures, at the time of Bid opening/Proposal submittal.

### **7.3 COMMODITIES**

7.3.1 Goal - The County hereby establishes an annual DM/DWBE participation goal of ten percent (10%) for Commodity contracts that are procured competitively by the County.

7.3.2 Outreach Activities - The County shall maximize DM/DWBE participation by utilizing the following outreach activities, where appropriate:

- a. Solicitation of Certified DM/DWBEs - For all purchases, regardless of procedures followed, the County will attempt to maximize opportunities for DM/DWBE Firms by ensuring that whenever a Certified DM/DWBE Firm is listed in a particular Commodity category, that Firm will be included in the

County's broadcast list soliciting the submission of Bids, Proposals or quotes for the applicable category.

- b. Advertising - the County may utilize Minority-focused media to inform DM/DWBE Firms of upcoming contract opportunities.
- c. Bond Waiver - All Commodity purchases which qualify for bid bonds and/or performance bonds will be reviewed to determine if the bond requirements unnecessarily restricts DM/DWBE participation. Factors to be considered include, but are not limited to, (i) complexity of the project; (ii) County experience with similar purchases; and (iii) exceptional risk factors. Bond requirements may be waived on projects where appropriate.
- d. Specification Development - The Procurement Services Department and the Economic Development Department will work with user County departments to make modifications or alterations to procurement specifications to encourage competitive bidding by DM/DWBE Firms.
- e. Tie Bids - If a tie bid occurs, Certified DM/DWBE Firms will receive preference as outlined in the Hillsborough County Procurement Policies and Procedures Manual.

#### 7.4 CONTRACTUAL SERVICES

- 7.4.1 Goal - The County hereby establishes an annual DM/DWBE goal of ten percent (10%) for Contractual Services that are procured competitively by the County.
- 7.4.2 Bonus Points - The County may establish a bonus point system for those contracts for Contractual Services which contain subcontracting opportunities for DM/DWBEs in order to promote the participation of DM/DWBE Firms.
- 7.4.3 Outreach Activities - The County shall maximize DM/DWBE participation by utilizing the following outreach activities, where appropriate:
  - a. Solicitation of Certified DM/DWBEs - For all purchases, regardless of procedures followed, the County will attempt to maximize opportunities for DM/DWBE Firms by ensuring that whenever a Certified DM/DWBE Firm is listed in a particular Contractual Services category, that Firm will be included in the County's broadcast list soliciting the submission of Bids, Proposals or quotes for the applicable category.

- b. Advertising - the County may utilize Minority-focused media to inform DM/DWBE Firms of upcoming contract opportunities.
- c. Bond Waiver - All purchases of Contractual Services which qualify for bid bonds and/or performance bonds will be reviewed to determine if the bond requirements unnecessarily restrict DM/DWBE participation. Factors to be considered include, but are not limited to, (i) complexity of the project; (ii) County experience with similar purchases; and (iii) exceptional risk factors. Bond requirements may be waived on projects where appropriate.
- d. Specification Development - The Procurement Services Department and the Economic Development Department will work with user County departments to make modifications or alterations to procurement specifications to encourage competitive bidding by DM/DWBE Firms.
- e. Tie Bids - If a tie bid occurs, Certified DM/DWBE Firms will receive preference as outlined in the Hillsborough County Procurement Policies and Procedures Manual.

#### 7.4.4 Bonus Points for RFP Solicitations

- a. All Requests for Proposals (RFPs) for Contractual Services shall include a provision for bonus points for DM/DWBE utilization.
- b. An amount equal to five percent (5%) of the maximum allowable points applicable to a given RFP shall be awarded as bonus points to any Proposer who issues a written commitment to subcontract a minimum of ten percent (10%) of its contract dollar amount to a Certified DM/DWBE or a Registered SBE. The proposed DM/DWBE or SBE must provide a letter of intent, on its own letterhead and signed by its Chief Operating Officer, to contract with the prime Proposer.
- c. The Minority & Disadvantaged Business Development Office, Economic Development Department, will be responsible for reviewing requests for bonus points and for the assignment of these points.

### 7.5 CONSULTING SERVICES/CCNA CONTRACTS

- 7.5.1 Goal – The County hereby establishes an annual DM/DWBE participation goal of ten percent (10%) for professional Consulting Services contracts.
- 7.5.2 Contracting Opportunities - The County will provide contracting opportunities for professional architectural and engineering Consulting

Services pursuant to Section 287.055, Florida Statutes, known as the "Consultant's Competitive Negotiation Act" (CCNA).

### 7.5.3 Bonus Points

- a. The County will award bonus points to proposing consultants for their written commitment to utilize Certified DM/DWBE Firms.
- b. Bonus points will be applicable to a proposing consultant's utilization of DM/DWBE Firms Certified by the Hillsborough County Minority & Disadvantaged Business Development Office, Economic Development Department and those Firms eligible for provisional reciprocity who are certified by other jurisdictions within the State of Florida. Provisional reciprocity shall be consistent with the provisions set forth in Part II, Section 4 of these Operational Procedures.
- c. The Minority & Disadvantaged Business Development Office, Economic Development Department, will be responsible for reviewing requests for bonus points and for the assignment of these points.
- d. Bonus points shall be awarded as follows:
  - (i) Six (6) points to a Certified DM/DWBE who proposes as a prime consultant on a project, and who makes a written commitment to pay a minimum of ten percent (10%) of its ultimate fees to other Certified DM/DWBE sub-consultants.
  - (ii) Five (5) points to a non-DM/DWBE who proposes as a prime consultant and who makes a written commitment to pay a minimum of ten percent (10%) of its ultimate fee to a Certified DM/DWBE sub-consultant.
  - (iii) Bonus points are not cumulative.
- e. Upon award of a contract to the prime consultant, that consultant shall provide the Minority & Disadvantaged Business Development Office with a copy of a properly executed subcontract agreement with each of the DM/DWBEs listed in its proposal letter. This documentation should be received by the Minority & Disadvantaged Business Development Office within thirty (30) Days of the County's award of the contract to the prime consultant and/or issuance of a valid task order by the County. If the parties are unable to successfully negotiate a subcontract agreement within this time frame, the prime consultant shall advise the Minority & Disadvantaged Business Development Office of the impasse

reached in the negotiations. Upon review of the facts, if, in the best interests of the County, it is determined that a substitution of the DM/DWBE may be warranted, the Minority & Disadvantaged Business Development Office will advise the prime consultant to select a substitute DM/DWBE. A substitute DM/DWBE must meet the same Certification requirements as the originally proposed DM/DWBE, and the substitution must be authorized by the Minority & Disadvantaged Business Development Office.

- f. In the event of changing circumstances that are beyond the control of the prime consultant (such as changes made by the County in the scope of work to be performed or the inability of the proposed DM/DWBE to perform the required services), the prime consultant shall submit a written explanation of the changed circumstances to the Minority & Disadvantaged Business Development Office and shall request a substitution of the original proposed DM/DWBE subconsultant/Supplier with another DM/DWBE. The purpose of this required substitution will be to ensure proper utilization of DM/DWBE Firms in the project consistent with the original award of bonus points in the selection process. The substitute DM/DWBE must meet the same Certification requirements as the originally proposed DM/DWBE, and the substitution must be authorized by the Minority & Disadvantaged Business Development Office.
- g. Pursuant to DM/DWBE provisions outlined in the Agreement for Professional Services, the County reserves the right to audit the prime consultant's records pertaining to the project at any time during the term of the agreement and for a period of five (5) years after the completion of work or termination of the agreement, whichever is later.
- h. Should a prime consultant issue a letter of protest regarding the award/non-award of bonus points, the protest will be handled in strict accordance with Hillsborough County Ordinance No. 13-24 – Hillsborough County Procurement Protest Policy and Procedures Ordinance.

## 7.6 ALL CONSTRUCTION CONTRACTS OF \$200,000 OR MORE

- 7.6.1 Overall Goal - The County hereby establishes an annual DM/DWBE participation goal of twenty percent (20%) for Construction contracts. This goal applies to all Construction-related procurements for projects with an estimated value of Two Hundred Thousand Dollars (\$200,000) and above; except when a project is approved for an SBE set-aside. Construction Contracts identified and approved under the SBE set-aside provision will be exempt from inclusion of DM/DWBE requirements. Where possible, the desired breakdown of DM/DWBE



participation in Construction contracts should reflect fourteen percent (14%) of the contract price being provided to DMBEs and six percent (6%) to DWBEs. Target annual percentages are as follows:

DM/DWBEs - 20% goal

Black	6%
Hispanic	6%
Women	6%
Other	2%

\*\*These percentages are not requirements (they are goals)

7.6.2 Project-Specific Goals

- a. Specific goals for each Construction project shall be adopted on a project-by-project basis.
- b. Project-specific goals will be established by the Goal Setting Committee.
- c. Goal Limit - The goal on any individual project shall not exceed thirty percent (30%).
- d. Goal Setting Committee – the Goal Setting Committee will be responsible for establishing project-specific goals for Construction projects. This Committee shall be composed of the following persons: one (1) representative from the County’s Department of Public Works, one (1) representative from the user Department/agency, one (1) representative from the County’s Public Utilities Department, and two (2) representatives from the Minority & Disadvantaged Business Development Office. One of the two representatives from the Minority & Disadvantaged Business Development Office will serve as chair of the Committee.
- e. Factors in setting project-specific goals - When setting project-specific contract goals, the Goal Setting Committee shall consider the following factors: (i) the type of work required to be performed under the contract; (ii) the type of subcontracting opportunities available under the contract ; (iii) the number of Certified DM/DWBEs eligible to perform the subcontracting work; (iv) the past experience of the County in meeting its goals; and (v) any special circumstances relating to the project, such as scheduling constraints, constructability requirements, federal and grant requirements, etc. Procedure for establishing project-specific goals

- (i) The project designer or designated County staff will break down the project and identify the various components of the project to be constructed;
- (ii) The project designer or designated County staff will submit a scope of work and a breakdown sheet with each component/dollar value to the Economic Development Department of the potential subcontracting opportunities in the project and the estimated percentage that each subcontract component bears to the total project using generally accepted construction methods, practices and procedures. The breakdown shall include the scope of the anticipated work for each component to be subcontracted and the qualifications required of the Subcontractor to do the work. Where practicable the most current edition of the Construction Specification Institute's Master format shall be used as a guide. The breakdown shall also identify if the project must meet EPA or other Federal grant requirements;
- (iii) The Economic Development Department will review the County' list of Certified DM/DWBEs and determine the availability of DM/DWBE Certified Subcontractors qualified to do the work on each possible subcontractable component;
- (iv) Upon completion and review of the breakdown, the Minority & Disadvantaged Business Development Office will schedule a time for convening the Goal Setting Committee;
- (v) The Economic Development Department shall provide a recommendation of Certified DM/DWBE Subcontractors for each component of work to the Goal Setting Committee;
- (vi) The Goal Setting Committee shall set the goals for each project based upon the availability of Certified DM/DWBEs;
- (vii) Each subcontract component for which there are at least three (3) Certified DM/DWBE Subcontractors shall constitute an element for calculating the goals to be established by the Goal Setting Committee.

7.6.3 DM/DWBE Prime Contractors – Any Certified DM/DWBE Firm that bids as a prime contractor on a Construction project, shall be subject to the same DM/DWBE Subcontractor participation goals as a non-DM/DWBE.

#### 7.6.4 Application of Goals

- a. The established goal shall be applied to the full monetary value of the contract (excluding the value of possible alternates) and be reflected in the monetary portion spent on subcontracts for consulting and Construction services awarded to those DM/DWBEs meeting contract specifications.
- b. Fifty percent (50%) of the total value of supplies furnished by a Certified DM/DWBE will be credited toward the goals established for the project provided that the Supplier is not a manufacturer. If the DM/DWBE Supplier also manufactures the goods, then full credit will be given.
- c. Prime contractors will receive credit for DM/DWBE subcontracts for goal attainment only for Subcontractors who are Certified and licensed, if required, in the specific area of expertise for which credit is sought at the time of the applicable Bid/Proposal submittal deadline. Bidders may use any DM/DWBE Certified by Hillsborough County, or other governmental agencies identified pursuant to Part II, Section 4 of these Operational Procedures.
- d. Projects valued over \$20,000,000 - Prime contractors will be allowed to utilize second tier minority reporting (minority subcontractor to 1<sup>st</sup> tier subcontractor) for goal attainment in project valued over \$20,000,000. Online compliance audits will be performed in the B2G vendor compliance system for both 2<sup>nd</sup> and 1<sup>st</sup> tier subcontractors.

7.6.5 Joint Ventures - A Joint Venture consisting of a Certified DM/DWBE and non-Minority Business, functioning as a prime contractor will be credited with Minority participation on the basis of the percentage of participation in the work, risk and profit by the DM/DWBE. Joint Venture Applications must be submitted to the Economic Development Department for review and approval prior to submission of the applicable Bids/Proposals. The Joint Venture Application must indicate compliance with Chapter 489, Florida Statutes. The approved Joint Venture Application shall be submitted with the bid.

7.6.6 Contracts with no Specified Project Goal - For Construction contracts for which no project by project goal was set because it was estimated by the County at a price of less than Two Hundred Thousand (\$200,000), but for which the bid or bids received equals or exceeds Two Hundred Thousand (\$200,000), the County's annual 20% construction goals shall apply.

7.6.7 Contracts with a Specified Project Goal - For Construction contracts for which a project goal is established but for which the bid submitted is less than Two Hundred Thousand (\$200,000), the established goal will

not apply in the determination of a bidder's responsiveness to these requirements.

7.6.8 Public / Private Affordable Housing Initiatives - In instances where the BOCC participates with a private developer in a Construction project for the good of the community, (such as in the case of affordable housing projects through the County's Affordable Housing Department), the Minority & Disadvantaged Business Development Office shall coordinate with the applicable developer to ensure that maximum opportunities for participation are afforded to Certified DM/DWBE Firms.

7.6.9 Work/Term Contracts

- a. Work/Term Contracts are ones in which miscellaneous tasks are periodically assigned on an as-needed basis. The scope of services needed to complete each task may vary in size and complexity. Therefore, the DM/DWBE reporting requirements are altered for these types of contracts.
- b. The Goal Setting Committee shall establish a goal for each Work/Term contract that is valued at Two Hundred Thousand Dollars (\$200,000) or more.
- c. Bidders/Proposers will be required to list their potential Subcontractors on the MBE Page-1 (Subcontractors/Material Suppliers) which is submitted with their Bid/Proposal. Such documentation of compliance shall be the responsibility of the successful bidder.
- d. The successful bidder (contractor) shall be expected to provide participation to their list of potential DM/DWBEs on work orders valued at Twenty Five Thousand Dollars (\$25,000) or more. The contractor shall provide documentation online in the Vendor Compliance System to the Minority & Disadvantaged Business Development Office on a monthly basis which delineates the level of DM/DWBE participation that the contractor achieved during the applicable month, or evidence of good faith efforts expended in attempts to utilize DM/DWBE Firms.
- e. The above MBE requirements are deemed waived when a Work/Term contract has been identified as an SBE set-aside.
- f. Since the County retains the exclusive option to renew a Work/Term contract for additional periods, the Minority & Disadvantaged Business Development Office shall provide to the user Department/agency and Procurement Services a written report which evaluates the contractor's compliance with

the County's DM/DWBE Program requirements during the first year of the contract. If the determination is made that the contractor's actions were not in compliance with the County's DM/DWBE requirements, the Minority & Disadvantaged Business Development Office may recommend that the contract not be renewed for the additional period.

7.6.10 CM At-Risk Construction Contracts - For CM At-Risk procurements, the following procedures shall apply:

- a. The County's annual DM/DWBE participation goal for construction contracts, including CM At-Risk contracts, is twenty percent (20%).
- b. Notwithstanding the above, specific goals for each project shall be adopted on a project-by-project basis.
- c. The specific goals will be established by the County's DM/DWBE Goal Setting Committee prior to bid solicitation.
- d. The CM At-Risk Contractor shall be contractually obligated to meet the goal or demonstrate that it has made Good Faith Efforts to do so. The CM At-Risk Contractor shall also be contractually obligated to meet the County's Equal Opportunity requirements or demonstrate that it has made Good Faith Efforts to do so.
- e. Within thirty (30) Days of the Notice to Proceed with Work date and prior to issuance of the Notice to Proceed with Construction by the County, the CM At-Risk Contractor shall submit copies of records and supporting documentation to the Minority & Disadvantaged Business Development Office that document evidence of its compliance with the County's DM/DWBE requirements, i.e., executed subcontract agreements, purchase order agreements and evidence of Good Faith Efforts.
- f. The CM At-Risk Contractor shall also submit an Equal Employment Opportunity Questionnaire & Affirmative Action Plan for its Firm as evidence of its compliance with the County's Equal Opportunity requirements.

7.6.11 Design-Build Construction Contracts- Competitive Selection with Guaranteed Maximum Price (GMP) - the following procedures shall apply:

- a. The County's annual DM/DWBE participation goal for construction contracts, including Design-Build contracts is twenty percent (20%).

- b. Notwithstanding the above, specific goals for each project shall be adopted on a project-by-project basis.
- c. The specific goals will be established by the County's DM/DWBE Goal Setting Committee prior to bid solicitation to include both the design and construction.
- d. The Design-Builder shall be contractually obligated to meet the goal or demonstrate that it has made Good Faith Efforts to do so. The Design-Builder shall also be contractually obligated to meet the County's Equal Opportunity requirements or demonstrate that it has made Good Faith Efforts to do so.
- e. After Notice to Proceed with Design and prior to issuance of the Notice to Proceed with Construction by the County, the Design-Builder shall submit copies of records and supporting documentation to the Minority & Disadvantaged Business Development Office that document evidence of its compliance with the County's DM/DWBE requirements, i.e., executed subcontract agreements, purchase order agreements and evidence of Good Faith Efforts.
- f. The Design-Builder shall also submit an Equal Employment Opportunity Questionnaire & Affirmative Action Plan for its Firm as evidence of its compliance with the County's Equal Opportunity requirements.

7.6.12 Design-Build Construction Contracts – Qualifications based selection ONLY – the following procedures shall apply:

- a. The County's annual DM/DWBE participation goal for construction contracts, including Design-Build contracts, is twenty percent (20%).
- b. Notwithstanding the above, specific goals for each project shall be adopted on a project-by-project basis.
- c. The specific goals will be established by the County's DM/DWBE Goal Setting Committee prior to bid solicitation.
- d. The County will award bonus points to proposing entities for their written commitment to utilize Certified DM/DWBE Firms as subconsultants in the **design** phase.
- e. Bonus points will be applicable to a proposing Design-Builder's utilization of DM/DWBE Firms Certified by the Hillsborough County Minority & Disadvantaged Business Development Office, Economic Development Department and those Firms eligible for provisional reciprocity who are certified by other jurisdictions within the State of Florida. Provisional reciprocity shall be

consistent with the provisions set forth in Part II, Section 4 of these Operational Procedures.

f. The Minority & Disadvantaged Business Development Office, Economic Development Department, will be responsible for reviewing requests for bonus points and for the assignment of these points.

g. Bonus points shall be awarded as follows:

(i) Five (5) points to a non-DM/DWBE who proposes as a prime consultant and who makes a written commitment to pay a minimum of ten percent (10%) of its ultimate **design** fee to a Certified DM/DWBE sub-consultant.

**(ii) A firm that elects to request bonus points will still be contractually obligated to meet the established overall DM/DWBE goal set for the project which is based on the total contract price. Funds utilized with DM/DWBE professional subcontractors in the design phase will be counted toward overall goal attainment. The remainder of the dollars to meet the overall goal will be achieved by utilizing subcontractors in the Construction Phase of the project. (i.e. Funds spent in the design phase for minority sub-consultants, plus funds spent in the construction phase with minority subcontractors combined must meet the dollar value of the overall goal set for the project.)**

h. The Design-Builder shall be contractually obligated to meet the goal or demonstrate that it has made Good Faith Efforts to do so. The Design-Builder shall also be contractually obligated to meet the County's Equal Opportunity requirements or demonstrate that it has made Good Faith Efforts to do so.

i. After Notice to Proceed with Design and prior to issuance of the Notice to Proceed with Construction by the County, the Design-Builder shall submit copies of records and supporting documentation to the Minority & Disadvantaged Business Development Office that document evidence of its compliance with the County's DM/DWBE requirements, i.e., executed subcontract agreements, purchase order agreements and evidence of Good Faith Efforts.

j. The Design-Builder shall also submit an Equal Employment Opportunity Questionnaire & Affirmative Action Plan for its Firm as evidence of its compliance with the County's Equal Opportunity requirements.

7.6.13 Advertising - the County may utilize Minority-focused media to inform DM/DWBE Firms of upcoming contract opportunities.

## 7.7 CONTRACT PRE-AWARD REVIEW FOR CONSTRUCTION BIDS

- 7.7.1 Subcontractor/Material Suppliers List - The bidder is required to provide Procurement Services with the Subcontractors/Material Suppliers List as part of the Bid/Proposal submitted by the Bid submittal deadline.
- 7.7.2 Good Faith Efforts Determination Form - Within five (5) Days after the Bid submittal deadline and if the DM/DWBE established goal has not been achieved, the three (3) lowest bidders are encouraged to submit their Good Faith Efforts Determination Form and all supporting documentation to Procurement Services.
- 7.7.3 Joint Venture - Where a non-Minority/Minority Joint Venture is the prime bidder/contractor or is intended to be used by a prime contractor as a Subcontractor for the purpose of meeting the County's Program participation goals, a Joint Venture Disclosure Application showing the extent of the DM/DWBE participation must be submitted to the County at the time of bid submittal deadline. Joint Ventures that have been approved pursuant to Part II, Section 5 of these Operation Procedures will be credited with the proportional Minority and/or Woman Business participation in the Joint Venture for the purpose of meeting the County's DM/DWBE goal.
- 7.7.4 Documentation of Efforts to Meet Goal - In addition to the Good Faith Efforts described in Section 7.8 below, documentation of efforts to meet the established goal shall include:
- a. Evidence of total efforts expended toward meeting the established DM/DWBE Program goals.
  - b. A list of each DM/DWBE contacted but determined to be unavailable to work on the project.
- 7.7.5 Compliance Reviews - The Economic Development Department may perform Affirmative Action/Equal Opportunity and DM/DWBE participation compliance reviews on the three (3) apparent low bidders concurrently in order to reduce the County's Bid review time. Each Bid is reviewed on its own merits.
- 7.7.6 Additional Documentation Required to be Submitted by Apparent Low Bidder - The apparent low bidder shall submit the following documents within a reasonable time frame, but not to exceed fifteen (15) Days after notification has been issued to the apparent low bidder: (i) an Equal Employment Opportunity Questionnaire for its Firm, and (ii) an executed subcontract agreement for each DM/DWBE Firm listed in the apparent low bidder's Bid (Subcontractors/Material Suppliers List). Failure of the apparent low bidder to submit executed



DM/DWBE subcontracts for the list of proposed Subcontractors shall result in the omitted subcontracts not being credited toward goal attainment and may result in a finding of non-responsiveness to the DM/DWBE Program requirements. Subcontract agreements submitted for Certified DM/DWBEs that are over and above the proposed Firms listed in the apparent low bidder's Bid will also be credited towards goal attainment; Certification must be verified in order for credit to be received.

## 7.8 GOOD FAITH EFFORTS

- 7.8.1 Contractors submitting Bids to provide Construction services to the County will be evaluated on their compliance with both Minority and Women group employment levels, as well as the DM/DWBE participation goals as established by the Program.
- 7.8.2 In the event the DM/DWBE goal is not achieved, the contractor, within two Days of the Bid submittal deadline, is encouraged to submit the Good Faith Efforts Determination Form along with all supporting documentation as evidence of good faith efforts expended to achieve the goals.
- 7.8.3 In order to be viewed as "good faith" efforts, a contractor's efforts should be those that could reasonably be expected from a contractor who was actively and aggressively seeking to obtain DM/DWBE participation. Contractors must solicit quotes in good faith from interested DM/DWBE Firms. Quotes, Proposals and Bids from interested DM/DWBE Firms must not be rejected without reasonable justification. DM/DWBE Subcontractors must also exhibit good faith in their responses to the contractor's solicitations.
- 7.8.4 The submitted Good Faith Efforts will be evaluated and quantified to determine whether participation is in compliance with the County's Good Faith Efforts criteria. Bidders will be deemed in compliance if an overall score of **seventy percent (70%)** is achieved. Such an overall score may be inclusive of any bonus point opportunity that is provided in the County's Good Faith Efforts evaluation criteria.
- 7.8.5 The County shall consider the following criteria in determining Good Faith Efforts:
  - a. Attendance at the pre-bid conference by a senior member of the contractor Firm;
  - b. Whether and when the contractor provided written notice, by mail facsimile, e-mail or hand delivery, to all Certified DM/DWBEs that perform the type of work to be subcontracted advising the DM/DWBE of the following:
    - (i) of the specific work the contractor intends to subcontract;

- (ii) that their interest in the contract is being solicited; and
  - (iii) how to obtain information for the review and inspection of contract plans and specifications;
- c. Whether the contractor selected economically feasible portions of work to be performed by DM/DWBE including, where appropriate, breaking contracts or combining elements of work into economically feasible units. The ability of the contractor to perform the work with its own work force will not, in itself, excuse a contractor from making positive efforts to meet DM/DWBE contract goals;
- d. Whether the contractor submitted to the County all quotations received from DM/DWBEs; and for those quotations not accepted, an explanation and documentation of why the DM/DWBE will not be used during the course of the contract;

Receipt of a lower quotation from a non-DM/DWBE will not, in itself, excuse a contractor's failure to meet DM/DWBE contract goals. Price alone does not constitute an acceptable basis for rejecting DM/DWBE Subcontractor bids unless the contractor can demonstrate/document that no reasonable price can be obtained from a DM/DWBE;

- e. Whether the contractor submitted documentation that indicates assistance provided to DM/DWBEs in reviewing the contract plans and specifications;
- f. Whether the contractor submitted documentation that indicates assistance provided to DM/DWBEs in obtaining bonding, insurance and lines of credit;
- g. Whether the contractor's efforts were merely a formality and, given all relevant circumstances, could not reasonably be expected to provide sufficient DM/DWBE participation to meet the goals; and
- h. Whether the contractor has utilized DM/DWBE Subcontractors on other County contracts and/or other government and private sector contracts within the past two (2) years.

This list is not intended to be exclusive or exhaustive. The bidder may also submit documentation of other types of efforts that the bidder has taken which reflect the quality, quantity and intensity of those efforts.

7.8.6 Contractors should contact the Economic Development Department immediately for guidance and assistance in the event that:

- a. The contractor anticipates or has difficulty in identifying and/or obtaining DM/DWBEs for subcontract participation; or

- b. The contractor is unable to identify portions of the work that can be broken down for DM/DWBE subcontract participation; or
- c. The contractor determines that breaking down the work is not possible or feasible.

## 7.9 BID REVIEWS & PROTESTS

- 7.9.1 For Bids subject to DM/DWBE requirements, the Economic Development Department shall provide its evaluation of Bids to Procurement Services within ten (10) Days of the Economic Development Department's receipt of the applicable Bids from Procurement Services.
- 7.9.2 The Economic Development Department will make a determination as to the responsiveness of bidder(s) to the DM/DWBE Program goals. If the bidder(s) have not the achieved goals, but have documented sufficient Good Faith Efforts to achieve the goals, a recommendation of bidder responsiveness shall be made.
- 7.9.3 In the event the responsiveness determination is not in favor of a bidder (i.e., the bidder has not achieved the Program goals or demonstrated sufficient Good Faith Efforts to achieve the goals), then the bidder will be notified in writing by Procurement Services. Any objection to a non-responsive determination shall be deemed to be a protest, and the bidder is required to file said protest in strict accordance with Hillsborough County Ordinance No. 13-24 – Hillsborough County Procurement Protest Policy and Procedures Ordinance.

## 7.10 COUNTY DEPARTMENTS

County departments and offices who obtain goods and services outside of the competitive procurement process, and departments to whom purchasing authority has been delegated including, but not limited to, Real Estate and Facilities Management , the County Attorney's Office, Health and Social Services, and Human Resources, shall make a good faith effort to include DM/DWBEs in their procurement activities. These efforts should include the following:

- a. Utilizing the DM/DWBE Directory.
- b. Seeking assistance from the Economic Development Department.
- c. Seeking quotes from DM/DWBEs.

## **SECTION 8 – ELIMINATION OR MODERATION OF RACE-CONSCIOUS PREFERENCES**

- 8.1 Hillsborough County shall meet the maximum feasible portion of its overall goals by using race-neutral means of facilitating DM/DWBE participation. Race-neutral DM/DWBE participation includes any time a DM/DWBE wins a prime contract through customary competitive procurement procedures, is awarded a subcontract on a prime contract that did not have a DM/DWBE goal, or even if there is a DM/DWBE goal, wins a subcontract from a prime contractor that did not consider its DM/DWBE status in making the award (e.g., a prime contractor that uses a strict low bid system to award subcontracts).
- 8.2 Race-neutral means include, but are not limited to, the following:
- a. Arranging solicitations, times for presentation of Bids, quantities, specifications, and delivery schedules in a way that facilitate DM/DWBE and other Small Business participation (e.g. unbundling large contracts to make them more accessible to small businesses, and encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces).
  - b. Providing assistance in overcoming limitations, such as the inability to obtain bonding or financing, by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from Bids, and providing services to help DM/DWBEs and other Small Businesses obtain bonding and financing.
  - c. Providing technical assistance and other services.
  - d. Conducting information and communications sessions that address contracting procedures and specific contract opportunities, ensuring the inclusion of DM/DWBEs and other Small Businesses on mailing lists for bidders, ensuring the dissemination of lists of potential DM/DWBE Subcontractors to bidders on prime contracts, and providing information in languages other than English, when appropriate.
  - e. Implementing a supportive services program to develop and improve immediate and long term business management, record keeping, and financial and accounting capability for DM/DWBEs and other Small Businesses.
  - f. Providing services to help DM/DWBEs and other Small Businesses improve long-term development, increase opportunities to participate in various kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency.
  - g. Establishing a program to assist new, start-up Firms, particularly in fields in which DM/DWBE participation has historically been low.

- h. Assisting DM/DWBEs and other Small Businesses to develop their capacity to utilize emerging technology and conduct business through electronic media.
- 8.3 Race-preferences such as project-by-project goals and bonus points on Requests for Proposals shall only be used to the extent that the County's overall goals in individual procurement areas or for individual under-utilized race, gender or ethnic groups cannot be achieved by race-neutral means.
- 8.4 If the County's DM/DWBE participation in any one procurement area or for any one or more underutilized race, gender or ethnic group exceeds the County's overall goal for two (2) consecutive years, the County may reduce its use of contract goals or bonus points proportionately in the following year.

## **SECTION 9 - COUNTY'S AFFIRMATIVE ACTION COMMITMENT**

- 9.1 The County, through its Economic Development Department, shall provide affirmative steps to assist all bidders in the County's procurement program.
- 9.2 DM/DWBE Directory - The Economic Development Department shall establish and maintain a current directory of Certified Hillsborough County DM/DWBEs that are able to provide the goods and services typically procured by the County.  
  
The Directory will be maintained on the County's web site through the Economic Development Department's home page and will be hosted by B2GNow. Searches and copies of the Directory may be exported from the system as deemed appropriate by the user.
- 9.3 Liaison - The County will establish and maintain, through its Economic Development Department and Procurement Services, a liaison with organizations and agencies working in the area of economic development for Minorities and Women or who are otherwise affected by the DM/DWBE Program.
- 9.4 County Assistance - The County will provide guidance and assistance to any contractor or DM/DWBE which seeks assistance in understanding the County's procurement procedures and DM/DWBE Program. It is the sole responsibility of the contractor or DM/DWBE to seek necessary assistance well in advance of the need thereof.
- 9.5 Pre-Bid Conference - During pre-bid conferences, the County's representative shall review and explain the County's DM/DWBE Program and associated goals on all Construction contracts with an estimated value of Two Hundred Thousand Dollars (\$200,000) or more.

## **SECTION 10 - CONTRACT COMPLIANCE REQUIREMENTS**

### **10.1 COMPLIANCE MONITORING**

Compliance monitoring is conducted to determine if prime contractors and/or Subcontractors are complying with the requirements of the Equal Opportunity and/or DM/DWBE Programs. Failure of a contractor to comply with the requirements of the Programs may result in the County taking remedial action by legal or non-legal means. The following guidelines will be followed when monitoring contracts for compliance with the Equal Opportunity and/or DM/DWBE Programs:

#### **10.1.1 Informal Site Visits**

- a. Economic Development may make unannounced periodic project site visits to assess contractor(s) and Subcontractor(s) performance and/or compliance.
- b. The contractor will make Construction Reports (if applicable) and Subcontractor performance reports available for review by the County.
- c. The contractor will electronically report payments to all DM/DWBE Subcontractors based on payments made to the contractor from the County.

#### **10.1.2 Formal Compliance Audit**

- a. Economic Development will provide automated alerts to the contractor of a compliance review at least ten (10) Business Days prior to the on-site verification and interview. The notification will inform the contractor of the date, time, and location of the review. The review may consist of the following:
  - (i) Economic Development may tour job site.
  - (ii) Economic Development may interview employees of contractor and Subcontractors for compliance with bid requirements and DM/DWBE Procedures.
  - (iii) Economic Development may review subcontract agreements and purchase orders to verify that Subcontractors are performing the work specified therein.
- b. Upon completion of the review, the Economic Development Department will verify all available information and documents

provided by the Contractor and make notations to the file of the compliance results.

## 10.2 NON-COMPLIANCE

10.2.1 If it has been determined that the contractor is not in compliance, the Economic Development Department will notify the contractor within ten (10) Business Days of the site visit and identify the deficiencies found and the required corrective action that should be taken to remedy the deficiencies within a specific time period.

10.2.2 Before the contractor can be found to be in compliance, he/she must make a specific commitment, in writing, to correct the deficiencies. The commitment must include the precise action(s) to be taken and the date for completion. Upon receipt of the written commitment from the contractor, the Economic Development Department will notify the contractor, in writing within ten (10) Business Days of the Department's acceptance of the commitment. The contractor shall be notified that making such commitments do not preclude future determinations of non-compliance based on a finding that the commitments were not faithfully performed.

## 10.3 ADMINISTRATIVE ACTIONS

If the non-compliance status of the contractor has not been remedied by the date agreed upon by the contractor and the County, the following actions will be taken:

- a. The Director of the County's Economic Development Department and/or his/her designee will issue a notice, by certified mail, outlining the identified deficiencies to the contractor within ten (10) Business Days following the agreed upon date of the corrective action.
- b. The Economic Development Department will schedule a compliance conference and provide written notification to the contractor of the date and time of such conference.
- c. The following persons may attend the compliance conference:
  - (i) Manager, County Minority & Disadvantaged Business Development Office;
  - (ii) Contractor; and
  - (iii) County Project Manager
- d. Failure to resolve issues will result in a recommendation by the Economic Development Department to the County Administrator regarding appropriate actions to be taken.

## **SECTION 11 - NON-PERFORMANCE AND REMEDIES OF COUNTY**

- 11.1 Hillsborough County reserves the right to exercise any available remedy in the event of a contractor's failure to perform any of its contractual obligations pursuant to the DM/DWBE Program.
- 11.2 Failure to perform under the terms of a contract with regard to the DM/DWBE Program, includes, but is not limited to, the following:
  - a. Failure of the contractor to utilize the services of a DM/DWBE pursuant to a subcontract submitted to the County and utilized by the County in a determination of the contractor's responsiveness to the DM/DWBE Program. If a contractor or Subcontractor is unable to perform pursuant to such a contract, the contractor shall substitute the affected Subcontractor with another Certified DM/DWBE Subcontractor. The contractor shall not substitute with a non-DM/DWBE Subcontractor or complete the work using its own forces without prior permission from the County. Permission shall be provided only upon a showing by the contractor that it is not reasonable or possible to obtain the services of another Certified DM/DWBE to complete the relevant portions of the contract.
  - b. Knowingly using a front company (i.e. a Firm/Business which is not, in fact, owned and Controlled by Minority individuals or Women, but poses as such in order to participate in the County's Program) to achieve DM/DWBE participation on a County contract.
  - c. Making any false statement(s) or using deceit for the purpose of influencing, in any way, any action of the County.
  - d. Unethical or other serious lack of business integrity with regard to DM/DWBE contract performance.
  - e. Failure to report payments made to identified DM/DWBE businesses in the Vendor Compliance Management System.
- 11.3 Remedies available to the County include, but are not limited to, the following:
  - a. Any contractor or Firm that falsely represents to the County, pursuant to a County contract, that it will use the commodities or services of a DM/DWBE Firm and fails to do so, may be in breach of contract. Upon determination of a breach, the County may exercise all available remedies for breach of contract.
  - b. Amounts paid to a contractor or Firm under a contract intended for expenditure with a DM/DWBE Firm and not so expended may be forfeited and recoverable by the County.



- c. Any violations under this section or any applicable local, state or federal law or rule shall be referred to the applicable law enforcement or regulatory agency for investigation and/or prosecution.
- d. The Director of the Economic Development Department may recommend to the County Procurement Services Director that the Firm be debarred from County procurements (i.e. prohibited from bidding or working on County contracts for a period of up to 24 months) pursuant to the criteria set forth in the County's Procurement Policy & Procedures Manual.

## **SECTION 12 - PROMPT PAYMENT POLICY**

- 12.1 Every Construction contract let by the County for the performance of work shall contain a provision requiring the prime Construction Contractor to certify, in writing, that all Subcontractors and Suppliers have been paid for acceptable work and materials from previous progress payments received by the prime contractor (less any retainage) prior to the County's disbursement of any further progress payments.
- 12.2 During the contract the County may, and upon completion of the contract the County shall, require documentation to certify that payments to such Subcontractors or Suppliers have been made. This provision in no way creates any contractual relationship between any Subcontractor and the County or any liability on the County for the contractor's failure to make timely payments to the Subcontractor. However, the County will consider the contractor's failure to comply with this provision a breach of contract.

## **SECTION 13 - PROGRAM CERTIFICATION & PARTICIPATION**

- 13.1 Only Firms Certified by Hillsborough County, or by other agencies granted reciprocal certification by Hillsborough County pursuant to Part II, Section 4.1 of these Operational Procedures will be used in determining goal attainment.
- 13.2 Firms that no longer meet eligibility standards as defined in Part II of these Operational Procedures, shall be graduated from the DM/DWBE Program and shall not be counted toward goal attainment through reciprocal certification.
- 13.3 In the event that a graduated DM/DWBE Firm should again become eligible as defined in Part II of these Operational Procedures, then that Firm may reapply for certification.

## **SECTION 14 – DM/DWBE & SBE ADVISORY COMMITTEE**

- 14.1 The purpose of the DM/DWBE & SBE Advisory Committee is to relay concerns of Minority contractors, Women contractors, non-Minority contractors, small business contractors and citizens at large to the County about the operation of the DM/DWBE & SBE Program.

- 14.2 The Committee shall meet at least quarterly.
- 14.3 The Committee shall consist of nine (9) members which shall include: three (3) Hillsborough County Certified Minority contractors/Firms, three (3) Non-Minority Contractors and, three (3) citizens-at-large, and two (2) alternates. Members will be appointed by the County Administrator and shall serve two-year terms.
- 14.4 The Committee shall formulate written procedures governing the conduct of its meetings, to include rules pertaining to meeting attendance requirements for its members.
- 14.5 In addition to its regular quarterly meetings, the Committee may conduct periodic workshops per year with DM/DWBEs and SBEs to ascertain their thoughts, concerns and recommendations regarding the Programs. The Committee shall also identify and research other problem areas and present recommended solutions as the Committee deems appropriate. The recommendations shall be provided to the Economic Development Department Director for appropriate presentation to the BOCC and the County Administrator.

**PART II**  
**DISADVANTAGED MINORITY /DISADVANTAGED WOMEN BUSINESS**  
**ENTERPRISE (DM/DWBE) PROGRAM -**  
**CERTIFICATION, PARTICIPATION,**  
**RECERTIFICATION AND DECERTIFICATION**

**SECTION 1 - ELIGIBILITY STANDARDS**

**1.1 DISADVANTAGED MINORITY/DISADVANTAGED WOMEN  
BUSINESS ENTERPRISE (DM/DWBE)**

An eligible DM/DWBE is a Business that meets all of the following criteria: (i) is organized to engage in commercial transactions, (ii) is domiciled in Florida, (iii) is at least fifty one percent (51%) owned by Minority persons and/or Women, (iv) whose management and daily operations are Controlled by Minorities and/or Women, (v) fulfills a Commercially Useful Business Function; (vi) employs fifty (50) or fewer permanent full-time employees averaged over a two year period, and (vii) has a net worth of not more than Two Million Dollars (\$2,000,000). As applied to sole proprietorships, the Two Million Dollars (\$2,000,000) net worth requirement shall include both personal and business assets.

**1.2 APPLICABLE STANDARDS**

Hillsborough County may refer to the standards and criteria established in the Florida Administrative Code and the judicial and administrative interpretations thereof in applying substantially equivalent certification criteria.

**1.3 COMMERCIAL TRANSACTIONS**

An eligible DM/DWBE is a Business which is currently licensed and engaging in commercial transactions in each specialty area in which Certification is being requested.

**1.4 DOMICILED IN FLORIDA**

The DM/DWBE shall be domiciled in Florida. If a corporation, it shall be organized under the laws of Florida; if a partnership or sole proprietorship, the owners shall be residents of Florida. In all cases the principal business office shall be located and organized in Florida.

**1.5 MINORITY OWNERSHIP**

At least fifty-one percent (51%) of the DM/DWBE Firm shall be owned by eligible Minorities or Women. Minority or Woman owners share of income earnings and risk shall be commensurate with the percentage of their ownership interest. Contributions of capital by the Minority or Woman owner must be real and substantial. Merely holding nominal title to corporate shares would not accord the "Minority owner" the customary incidents of ownership.

#### 1.6 MANAGERIAL CONTROL

Control in this instance shall mean that the Minority/Minorities or Woman/Women demonstrate the ability to make unilateral and independent business decisions as needed to guide the future and destiny of the Business.

#### 1.7 OPERATIONAL CONTROL

The primary consideration in determining operational Control and the extent to which the Minority/Minorities or Woman/Women actually operates the Business will rest upon the unique characteristics of the industry of which the Business is a part. The Minority/Minorities or Woman/Women owner must oversee the daily operation of the Business and be perceived by the industry as being in Control of the Firm.

#### 1.8 LICENSURE

For Businesses that cannot operate without a qualifying agent registration, the following criteria must be followed:

1. A Minority individual must be the license holder and qualifying agent for the Business with or without an ownership interest in the Business.
2. The qualifying agent must qualify the company to conduct the line of Business.
3. The Business and the qualifying agent shall obtain and hold any licenses as required by applicable municipal, county or state law.

#### 1.9 TRANSFER OF OWNERSHIP

If the DM/DWBE applicant's current ownership in the Business was obtained by a transfer from a non-Minority owner, employer or relative, the current Minority owner must have owned at least fifty one (51%) of the applicant Firm for a minimum of two (2) consecutive years prior to application. This applies to any transfer of ownership.

#### 1.10 COMMERCIALLY USEFUL BUSINESS FUNCTION

An applicant business shall be currently performing a useful business function in each specialty area(s) being requested for certification, as well as provide good/services to customers other than governmental agencies. The applicant will also be considered to be performing a useful business function when it is responsible for the execution of a distinct element of work of a contract and carrying out its responsibilities in actually performing, managing and supervising the work involved.

## 1.11 NET WORTH / BUSINESS SIZE

The applicant shall demonstrate that the net worth of its Business does not exceed Two Million Dollars (\$2,000,000). To determine the net worth of the applicant Business, the County shall consider the most recent annual financial statement for the Business or, in the case of sole proprietorships, annual financial statements for the Business and the Business Owner. The applicant must provide documentation to demonstrate that the Business employs fifty (50) or fewer permanent full-time employees averaged over a two-year period.

## **SECTION 2 - CERTIFICATION REVIEW PROCEDURES**

- 2.1 All applicants seeking Certification as a Hillsborough County DM/DWBE are required to complete the application process and must supply all required documentation as outlined in the application. The application may be completed online at: (website info here) or downloaded from the Economic Development Department, Minority & Disadvantaged Business Development link.
- 2.2 Upon receipt, all applications shall be given an initial screening to ensure appropriate signatures and completeness. The application must bear the original signature of the Minority/Woman owner who is submitting the application for review.
- 2.3 Within thirty (30) Days following the initial receipt of the application, Economic Development will request any omitted items or additional information. If the requested information or items are not received by the Economic Development Department within thirty (30) Days from the date of the request, the Department will deem the application abandoned.
- 2.4 Within thirty (30) Days following the submission of the application and all required supporting documentation, a desk audit will be conducted which may include an on-site visit. Failure of the applicant Business to cooperate with the scheduling of the visit or to cooperate during the course of the visit may result in no further action being taken by the County with regard to the application.
- 2.5 Applicants determined eligible shall receive a Certification letter and certificate which will list the approved lines of business and the Minority status category in which the Business is Certified. Once Certified, the Business shall remain Certified for a period of two (2) years.
- 2.6 Applicants determined to be ineligible shall receive a letter detailing the basis for the denial of Certification. Applicants denied Certification may request an administrative review of the decision pursuant to Part II, Section 8 of these Operational procedures.
- 2.7 An applicant may reapply for Certification six (6) months after the date of the County's notice of denial of Certification or the County's final order denying Certification.

- 2.8 Applicants may request to have their Federal Income Tax Documents returned to them after review by the Economic Development Department.

### **SECTION 3 - RECERTIFICATION**

- 3.1 Every two (2) years, Certified DM/DWBEs are required to complete and submit a Recertification Update Application in order to facilitate the Economic Development Department's review of their continued program eligibility status.
- 3.2 The system through the Economic Development Department will send Recertification Update alerts ninety (90), forty-five (45), and thirty (30), Days prior to the certification expiration date. If there have been changes in the applicant's Business, i.e. ownership interest, Control, size, etc., then these changes must be indicated on the Recertification Update Application
- 3.3 Upon receipt, the Recertification Update Application shall be given an initial screening to ensure appropriate signature and completeness. Within fifteen (15) Days following initial receipt of the applicant's Recertification Update Application, the Economic Development Department will request additional information necessary to substantiate continued eligibility. If the requested information is not received by Economic Development within fifteen (15) Days from the date of the request, the applicant's participation in the County's DM/DWBE Program will be suspended and their application for recertification shall be deemed abandoned.
- 3.4 A verification review (site visit) may be conducted by Economic Development upon receipt and review of the Recertification Update Application. Failure of the applicant Business to cooperate with the scheduling of the review (site visit) or to cooperate during the review (site visit) may result in the denial of recertification.
- 3.5 Recertification shall be granted when the applicant has fully complied with all requirements as set forth in these rules. Applicants determined eligible shall receive a recertification letter and certificate which will list the approved lines of business and the Minority status category in which the Business is Certified. Once recertified, an applicant shall remain Certified for a period of two (2) years.
- 3.5.1 As a prerequisite to recertification, each DM/DWBE must provide evidence of having completed a total of at least eight (8) hours of formal business training during the prior two-year period. Attendance at institutions within the State of Florida accredited to offer business-related courses will be accepted. Businesses that have been in business for ten (10) or more continuous/consecutive years are exempt from the eight hour formal business requirement.
- 3.5.2 Since the purpose of this requirement is to enhance the DM/DWBE's business acumen, the qualifying Minority or Woman owner must complete the training.

- 3.6 Applicants determined ineligible for recertification shall receive a letter detailing the reasons for the denial of recertification. Applicants denied recertification may request an administrative review of that action pursuant to Part II, Section 8 of these Operational Procedures.
- 3.7 If an application for recertification is timely submitted, a Certified DM/DWBE shall remain Certified until the Economic Development Department has made a determination of continued eligibility.
- 3.8 Applicants failing to submit their application within thirty (30) Days after the expiration of their previous Certification shall no longer be considered Certified.

#### **SECTION 4 - PROVISIONAL RECIPROCITY**

- 4.1 Reciprocity shall be granted to Minority, Women, and disadvantaged Businesses that are principally domiciled in the State of Florida and certified by other local city, county, or state jurisdictions situated throughout the State of Florida.
- 4.2 Minority, Women and disadvantaged Businesses who are certified by other jurisdictions and seek to participate on a Hillsborough County project shall be granted provisional reciprocal certification for **one** six (6) month period and shall be eligible to Bid and/or to be counted toward goal attainment on any County project during that six month period.
- 4.3 In order to be granted provisional reciprocal Certification and be counted toward goal attainment, verification of certification by County staff, a letter of certification from the certifying jurisdiction, or a copy of documentation indicating certification by the certifying jurisdiction must be submitted by the apparent low bidder within a reasonable time frame, but not to exceed fifteen (15) Business Days after notification by the County of apparent low Bidder status.
- 4.4 Professional consulting Firms requesting bonus points for utilization of a Minority, Woman, or disadvantaged Business must submit that Business' certification letter and/or documentation of certification with the request for bonus points.
- 4.5 The reciprocal certification will be issued to the Minority, Woman or disadvantaged Business upon the County's award of the contract to the low bidder or successful consultant on a CCNA project. The reciprocal certification effective date shall be the date of contract award and shall conclude six (6) months from that date.
- 4.6 All Firms granted reciprocal certification who would like to continue to participate in the County's DM/DWBE Program after the expiration of its reciprocal certification will be required to complete an application for Certification to Hillsborough County prior to the expiration of the six (6) month reciprocal certification period. The application may be completed

online or may be downloaded from the Economic Development Department, Minority & Disadvantaged Business Development link.

- 4.6.1 If an application is timely submitted it shall be reviewed by the Economic Development Department to determine the applicant's Program eligibility. Certification shall be granted when the applicant has complied with the County's requirements as set forth in Part II, Section 2 of these Operational Procedures.
- 4.6.2 Applicants who fail to submit their application within the stated time period or who fail to meet the Certification standards of Hillsborough County shall no longer be counted toward goal attainment for any future County projects.
- 4.6.3 Applicants previously denied Certification by Hillsborough County will not be granted reciprocal certification. These applicants must re-apply to Hillsborough County for Certification purposes.

## **SECTION 5 - JOINT VENTURE**

- 5.1 As required by Section 489.119 Florida Statutes, a Joint Venture shall be qualified in accordance with the rules of the Construction Industry Licensing Board.
- 5.2 A Joint Venture with Minority and Woman-owned component(s) must be approved by Hillsborough County if the Minority/Woman-owned component's involvement is to be credited toward fulfilling Hillsborough County's DM/DWBE participation goals. Since a Joint Venture consists of Businesses temporarily brought together, the Joint Venture itself cannot be deemed to be a DM/DWBE. However, in order for a Joint Venture with a Minority/Woman-owned component to satisfy Hillsborough County's DM/DWBE provisions, the Minority/Woman-owned element must be a Certified DM/DWBE entity.
- 5.3 In order to calculate credit towards Program participation, the extent to which the DM/DWBE contributes to, and is paid for its participation in the Joint Venture, must be documented to Hillsborough County. A Joint Venture wishing to have its DM/DWBE component count toward satisfying DM/DWBE goals must submit the following documentation with its Bid/Proposal.
  - a. Proof of Certification for each Minority/Woman-owned component of the Joint Venture. A Minority/Woman-owned joint venturer must be Certified before the Joint Venture can be approved.
  - b. Business resume for each party/member of the Joint Venture.
  - c. A copy of the Joint Venture Agreement, which must reflect the scope of the Minority or Woman venturer's managerial and financial responsibilities. It must be demonstrated that the DM/DWBE venturer



has the opportunity to make and exercise his/her independent judgment as a joint venturer.

## **SECTION 6 - DECERTIFICATION**

- 6.1 The County shall decertify any DM/DWBE, including those certified by other units of government, from participation in the County's Program upon a finding that the Firm no longer meets the County's eligibility requirements or that the Firm's performance with regards to Hillsborough County contracting and procurement is contrary to the standards and purpose of Hillsborough County's Program.
- 6.2 The DM/DWBE shall be advised of the allegations warranting its decertification and shall be required to cooperate with any investigation conducted with regard to the allegations. Economic Development staff may use any of the investigative tools in this Part II and may require that the DM/DWBE provide any of the documentation required by this Part II.
- 6.3 If the Department's investigation concludes that:
  - a. The DM/DWBE cannot be contacted at the address in the County DM/DWBE Directory; or
  - b. The DM/DWBE is no longer in business; or
  - c. The DM/DWBE is no longer licensed in the specialty area for which Certification was approved; or
  - d. The DM/DWBE obtained its original Certification through false representation or deceit; or
  - e. The DM/DWBE has experienced such a substantial change in ownership or Control that continued Certification would be contrary to the policy of the Hillsborough County DM/DWBE Program; or
  - f. The DM/DWBE has failed to perform properly or to complete, on time, contracts for work on at least two (2) previous County projects; or
  - g. The DM/DWBE has habitually and without just cause neglected the payments of bills or otherwise disregarded its obligations to Subcontractors, materialmen or employees; or
  - h. The owner, co-owner, President, Vice President or other controlling officer(s) of the DM/DWBE who has been convicted of a crime(s) involving moral turpitude and/or crime(s) involving the operation of its' Business, then the Business shall be decertified on a case-by-case basis at the sole discretion of the County.

If any of the above events are discovered to be factual during the investigation, then the Business will be decertified and a letter detailing the reasons for decertification will be sent to the Business. Businesses that have been decertified for any of the reasons listed above may request an administrative review of the decertification decision pursuant to Part II, Section 8 of these Operational Procedures.

- 6.4. Should a Business that has been given provisional reciprocity pursuant to Part II, Section 4.1 of these Operational Procedures be decertified from participating in Hillsborough County's DM/DWBE Program, then notice of such decertification will also be provided to the original certifying governmental agency.

## **SECTION 7 - AMENDED SPECIALTIES**

- 7.1 Any Certified DM/DWBE requesting Certification in additional specialty areas must complete an Amended Specialties Form. The Amended Specialties Form may be obtained from the Economic Development Department's website.
- 7.2 Upon receipt by the Economic Development Department, all Amended Specialty Forms and supporting licenses, if required, will be reviewed for determination of eligibility in the requested specialty.
- 7.3 Applicants determined eligible for additional specialty areas shall receive an amended certification letter which shall list the newly Certified specialty area(s) of the Business. The expiration date of the initial Certification will not be affected.
- 7.4 An applicant determined ineligible for the requested additional specialty areas will receive a letter indicating the reasons for the ineligibility. The applicant may appeal the Department's decision pursuant to Part II, Section 8 of these Operational Procedures.

## **SECTION 8 - ADMINISTRATIVE REVIEW**

- 8.1 **REQUEST FOR ADMINISTRATIVE REVIEW**  
A Firm that has received an adverse decision from the Economic Development Department's Minority & Disadvantaged Business Development Office regarding Certification, recertification, decertification or amended specialties may request an administrative review of that decision. A request for administrative review must be in writing and contain the specific grounds for contesting the staff decision. The request for administrative review shall be mailed or delivered to the County within ten (10) Business Days of the Firm's notification of the adverse decision. The request shall be mailed to:

DM/DWBE Certification & Registration Review Panel  
c/o Economic Development Department  
P.O. Box 1110  
Tampa, Florida 33601

Upon receipt of a request for administrative review, the Economic Development Department shall review the grounds stated in the request and may either grant Certification or schedule a hearing before the Administrative Certification & Registration Review Panel.

## 8.2 ADMINISTRATIVE CERTIFICATION & REGISTRATION REVIEW PANEL

8.2.1 The Administrative Certification & Registration Review Panel is established to review contested decisions regarding Certifications and/or Registrations.

8.2.2 The Administrative Certification & Registration Review Panel shall consist of the following persons: one (1) representative from the County's Procurement Services, one (1) representative from the County's Affordable Housing Department, one (1) representative from the County's Public Utilities Department, and two (2) representatives from the County's Public Works Department.

8.2.3 The County Administrator shall appoint all members of the Panel upon recommendation from the applicable Department Directors. Each Department Director shall concurrently recommend an alternate Panel member to the County Administrator to serve as a substitute in the event an originally appointed Panel member is unavailable.

## 8.3 DUTIES OF THE ADMINISTRATIVE CERTIFICATION & REGISTRATION REVIEW PANEL

8.3.1 The Panel shall convene upon request(s) from applicants who have been denied Certification, recertification, decertified or denied amended specialties.

8.3.2 An applicant may be accompanied by legal counsel; however, counsel may not address the panel, but may advise the applicant.

8.3.3 The Panel shall review all documentation prepared by the Department and submitted by the applicant in relation to the application prior to the time that the Panel convenes. The Panel shall not receive any new evidence.

8.3.4 The Panel shall hear oral presentations from Economic Development staff and the applicant regarding the merits of the application.

8.3.5 Panel members may ask the applicant and/or staff questions at anytime during or after the presentations.

8.3.6 An applicant wishing to appeal any decisions by the County may wish to arrange for a verbatim transcript of the hearing at his/her own expense.

8.3.7 Upon the conclusion of the presentations by the applicant and staff, the Panel shall vote in open session whether to uphold or reverse staff's recommendation. The Panel's decision will be submitted to the County Administrator and will contain findings of fact and of law.

8.3.8 The County Administrator may accept, reject or modify the Panel's decision. The County Administrator's action shall constitute the final agency action with regard to that particular matter.

8.4 RE-APPLICATION FOR CERTIFICATION AND/OR AMENDED SPECIALTIES

A Firm whose application for DM/DWBE Certification or recertification has been denied by the County, who has been decertified, or who has been denied amended specialties may reapply for Certification six (6) months after the final denial notice by the County.

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**PART III**  
**SMALL BUSINESS ENCOURAGEMENT PROGRAM**

**SECTION 1 - ELIGIBILITY STANDARDS**

1.1 SMALL BUSINESS ENTERPRISE (SBE)

An eligible Small Business Enterprise (SBE) is a Business that meets all of the following criteria: (i) has been organized under the laws of the State of Florida for a period of least one (1) year, (ii) has been principally domiciled in Hillsborough County for a period of at least one (1) year, (iii) is independently owned and operated, (iv) employs twenty-five (25) or fewer permanent full-time employees, (v) whose gross annual sales in Consulting Services and Contractual Services, commodities, and/or construction does not exceed Three Million Dollars (\$3,000,000) averaged over the previous three (3) year period, and (vi) serves a Commercially Useful Business Function. Franchises, subsidiaries and affiliates shall not be eligible for the SBE Program.

1.1.1 The SBE shall be independent (i.e. a free standing Business), and recognized as a separate entity for tax purposes. Businesses which share space, employees or other facilities may be considered a single Business for this Program without reference to tax status.

1.1.2 Mailing addresses must include the number, name of street, suite number (if applicable), and correct zip code. A post office box will not be acceptable absent a street address.

1.2 SERVICE- DISABLED VETERAN BUSINESSES

Service-Disabled Veteran Businesses are eligible for registration as a Small Business Enterprise under the Board of County Commissioners Small Business Encouragement Program pursuant to the requirements and eligibility standards as outlined in this Part III of the Operational Procedures.

1.2.1 “Service-Disabled Veteran” as defined in Florida Statutes 295.187(3)(b) means a veteran who is a permanent Florida resident with a service-connected disability as determined by the United States Department of Veterans Affairs or who has been terminated from military service by reason of disability by the United States Department of Defense.

1.2.2 “Service-Disabled Veteran Business” means a Business that is organized to engage in commercial transactions and which is at least fifty-one percent (51%) owned by one or more Service-Disabled Veterans as outlined in this Part.

1.3 ELIGIBILITY OF SBEs DOMICILED IN OTHER FLORIDA COUNTIES

In an attempt to broaden contracting opportunities for small Businesses, the County shall accept and deem eligible for participation in its SBE

Program, small Businesses that have been organized under the laws of Florida and that are principally domiciled within the following counties: Hernando, Manatee, Pasco, Pinellas, Polk and Sarasota Counties; provided, however, that those governments have implemented SBE Programs similar to Hillsborough County's Program and those governments have entered into a Memorandum of Understanding with Hillsborough County that permits the participation of eligible Businesses domiciled within Hillsborough County.

## **SECTION 2 - SMALL BUSINESS ENTERPRISE COMMITTEE**

### **2.1 SCOPE OF RESPONSIBILITY**

A Small Business Enterprise Committee (SBE Committee) is established to identify and designate County projects to be set aside for participation exclusively by SBE Firms; to identify and designate larger projects which lend themselves to downsizing into smaller projects; and to identify and designate projects for waiver of performance and payment bonds. The Committee meetings' place, time and date shall be arranged by the Committee Chair.

### **2.2 SMALL BUSINESS ENTERPRISE COMMITTEE COMPOSITION**

The SBE Committee shall be composed of Directors or their designees from the County's Economic Development Department, Engineering and Construction Service Division, Procurement Services, Public Utilities, and Facilities Management/Architectural Services. The County Administrator shall appoint the Committee Chair.

## **SECTION 3 - COMMODITIES (SET-ASIDE)**

- 3.1 Purchases of competitively procured Commodities and Services may be set-aside for Registered SBEs.
- 3.2 Set-asides shall be economically feasible contracts or portions of contracts that are within the capability of SBEs to perform.
- 3.3 In order to assure necessary competition, at least three (3) Registered SBEs must be available to provide the applicable Commodity before the procurement may be set-aside for SBEs.
- 3.4 Commodities or Services may be placed under the set-aside provision based on the recommendation of the SBE Committee.

If, in the judgment of the SBE Committee or Procurement Services Department, Bids/Proposals received under this set-aside provision are deemed to be excessive and unreasonable based on the nature of the purchase prices of similar purchases in the market area, a recommendation shall be made to the County Administrator that all Bids/Proposals be rejected and that a second call for Bids/Proposals be issued by the County. If a second call for Bids/Proposals are required, the SBE provision will be abandoned and bidding will be open to all qualified bidders.

#### **SECTION 4 - CONTRACTUAL SERVICES (SET-ASIDE)**

- 4.1 Purchases of competitively procured Contractual Services may be set-aside for Registered SBEs.
- 4.2 Set-asides shall be economically feasible contracts or portions of contracts within the capability of SBEs to perform.
- 4.3 In order to assure necessary competition, at least three (3) Registered SBEs must be available to perform the applicable Contractual Service before the procurement can be set-aside for SBEs.
- 4.4 Contractual Services may be placed under the set-aside provision based on the recommendation of the SBE Committee.

If, in the judgment of the SBE Committee or Procurement Services Department, Bids/Proposals received under this set-aside provision are deemed to be excessive and unreasonable based on the nature of the purchase prices of similar purchases in the market area, a recommendation shall be made to the County Administrator that all Bids/Proposals be rejected and that a second call for Bids/Proposals be issued by the County. If a second call for Bids/Proposals is required, the SBE provision of this will be abandoned and bidding will be open to all qualified bidders.

#### **SECTION 5 - CONSULTANT'S CONTRACTS (SET-ASIDE)**

The SBE Committee may identify projects to be set-aside for Registered SBEs pursuant to Section 287.055 Florida Statutes, known as the "Consultant's Competitive Negotiation Act" (CCNA). The SBE Committee shall consider projects such as miscellaneous professional services for set-aside pursuant to this section.

#### **SECTION 6 - CONSTRUCTION (SET-ASIDE)**

- 6.1 When deemed appropriate, the County may set aside specific Construction projects with an estimated amount of Five Hundred Thousand Dollars (\$500,000.00) or less to be bid upon by Registered SBE Firms only.
- 6.2 This set aside provisions may be used only in those cases where there are at least three (3) SBEs Registered to do the applicable work.
- 6.3 The SBE Committee shall select the projects to be included in this set-aside Program.
  - 6.3.1 The applicable County user department/agency shall identify all projects with an estimated cost of Five Hundred Thousand Dollars (\$500,000.00) or less and shall make recommendations to the SBE Committee regarding the selection of a project for a set-aside opportunity at least thirty (30) Days prior to the County's bid solicitation of the applicable project.

- 6.3.2 User departments/agencies are directed to present Work Order Contracts valued at Five Hundred Thousand Dollars (\$500,000.00) or less to the SBE Committee for consideration as a set-aside.
- 6.3.3 Economic Development shall review the County's SBE Registry to ensure that there are at least (3) three Registered SBE Firms that are qualified to perform the applicable work.
- 6.3.4 The SBE Committee shall receive the qualified projects and shall review the type and scope of the projects to determine the feasibility of designating the qualified projects as SBE set-asides.

6.4 PERFORMANCE AND/OR PAYMENT BONDS

~~6.4.1 Pursuant to the authority granted to governmental entities under Section 255.05 (1)(a) Florida Statutes, and Chapter 2004-414, Laws of Florida, payment and performance bonds for County projects of Five Hundred Thousand Dollars (\$500,000.00) or less may be waived.~~

~~6.4.2 The SBE Committee shall receive the qualified projects and shall review the type and scope of the projects to determine the feasibility of exempting the performance and/or payment bond requirements of a particular project. Factors to be considered include, but are not limited to, the following:~~

- ~~a. Complexity of the project;~~
- ~~b. County experience with the applicable project; and~~
- ~~c. Exceptional risk factors.~~

~~6.4.3 The following shall apply to projects selected for the waiver of performance and/or payment bonds:~~

- ~~a. Ten percent (10%) of each request for payment by the contractor shall be retained by the County until completion of the project.~~
- ~~b. The contractor shall provide partial waivers of liens from material Suppliers, equipment rentals and Subcontractors prior to the next payment.~~
- ~~c. Prior to final payment, the contractor shall submit to the County final lien waivers from all material Suppliers and subcontractors as defined in Section 713.01 Florida Statutes, attesting that said Suppliers and subcontractors have no claims against the contractor resulting from completion of the work provided under contractor's contract with the County.~~



## 6.5 BID BONDS

6.5.1 The Bid Bond, if applicable, may be waived at the discretion of the Director of the County's Procurement Services Department.

6.5.2 Bid Bonds for SBE Construction set-asides shall not exceed 2.5% of the Bid amount.

## 6.6 REJECTION OF BIDS

In instances where Board of County Commission Policy No. 03.02.01.00 is not applicable, the SBE Committee shall determine whether the Bids/Proposals submitted under this provision are excessive and unreasonable. If it has been determined that all Bids/Proposals submitted on a particular project under this provision are excessive and unreasonable, then the County Administrator may recommend that all Bids/Proposals be rejected and a second call for Bids/Proposals may be issued by the County. If a second call for Bids/Proposals are required, the SBE provision of this particular project will be abandoned and bidding will be open to all qualified bidders.

## SECTION 7 - PAYMENT ASSISTANCE/JOINT CHECKS

7.1 When a Firm Registered under the Hillsborough County Small Business Enterprise Program is awarded a County project as a **prime contractor**, the County may permit the issuance of joint checks.

7.2 Pursuant to procedures developed by the Clerk of the Circuit Court, the joint checks shall be payable to the Small Business Enterprise and its primary material or supply house; provided, however, that the Small Business has clearly indicated in its Bid, and has subsequently authorized in its contract, a desire to utilize this procedure and has identified the supply or material house in its Bid.

7.3 The SBE's payment requests shall clearly stipulate what materials are included and that the SBE has certified that those materials were received for and used on the applicable County projects. For the purpose of filing IRS Form 1099, the total amount of any joint payment shall be considered payment to the SBE only.

7.4 The utilization of this procedure by a Small Business shall in no way be construed to create a contractual relationship between the County and the supply or material house(s). It is intended solely for the benefit and assistance of the SBE.

## SECTION 8 - TIMELY PAYMENT BY COUNTY

8.1 All payments accruing to SBEs under contracts awarded pursuant to a set-aside shall be made within thirty (30) Days of receipt and approval of the invoice by the County.

- 8.2 Upon the County's receipt of invoices for payment, processing will be completed promptly so that payment may be made in thirty (30) Days; except when there are documented reasons that payment should not be made.

## **SECTION 9 - ADEQUATE TIME FOR BIDS AND PROPOSALS**

- 9.1 The standard advertisement period for an SBE set-aside Construction project with an estimated value of One Hundred Thousand Dollars (\$100,000.00) or more shall be a minimum of twenty-one (21) Days.
- 9.2 The advertisement period for all other SBE set-asides for Commodities and Contractual Services shall be in accordance with the County's Procurement Policy and Procedures Manual.
- 9.3 Advertisements for SBE set-asides shall clearly state that Bids will be accepted only from Registered SBEs.
- 9.4 Addenda to an Invitation to Bid and/or Request for Proposal that is issued less than five (5) Business Days prior to a scheduled Bid or Proposal opening shall include an extension of the Bid/Proposal opening date in order to comply with this 5-day requirement.

## **SECTION 10 - DISQUALIFICATION/REJECTION OF BIDS/PROPOSALS**

The Board of County Commissioners reserves the right to reject any Bids or Proposals from bidders who have previously failed to perform properly on any County or non-County contract and who have done so by commission or omission of an act of such serious or compelling nature that the act indicates a serious lack of business integrity or honesty.

## **SECTION 11 - ESTABLISHMENT OF DATA COLLECTION SYSTEM**

The Economic Development Department shall continue to maintain and improve a computerized monitoring system to assess the effectiveness of the SBE Program.

## **SECTION 12 - APPLICATION PROCEDURES**

- 12.1 All applicants wishing to be considered as a Hillsborough County Registered SBE must apply for the Program by completing the Unified Certification/Registration Application.
- 12.2 The Unified Certification/Registration Application may be obtained by contacting the Hillsborough County Economic Development Department.
- 12.3 All applicants must submit their Unified Certification/Registration Application to the Economic Development Department along with the following documentation, when applicable:

- a. All licenses to do business in Florida and Hillsborough County and/or verification of authority to do business under an assumed name for sole proprietorships, if required;
  - b. Prior three (3) years federal tax returns, including all schedules. If the applicant has been in business for less than three (3) years, a personal tax return may be required. **IRS form 941** and payroll records may also be required. Applicants may request to have their Federal Income Tax Returns returned to them after its final review by the Economic Development Department.
  - c. Proof that the Business has been organized under the laws of the State of Florida for a period of at least one (1) year.
  - d. Proof that the Business is currently principally domiciled in Hillsborough County and that the Business has been principally domiciled in Hillsborough County for a period of at least one (1) year, (for example, business tax receipts, utility bills, lease/rental agreements, property tax receipts, etc.).
  - e. Resume(s) of all principal(s) and key personnel of the Business.
  - f. Provide official documentation from the United States Department of Veterans Affairs and/or the United States Department of Defense as proof of the Business owner's service-connected disability and/or termination from military service for reason(s) of disability – this documentation is required only if the applicant is applying as a Service-Disabled Veteran Business.
- 12.4 Economic Development shall notify the applicant, in writing, of any additional documentation deemed necessary to facilitate the County's review of the application. Such notification shall be sent to the address provided in the applicant's application. Failure of the applicant to provide the requested documentation within the time period specified shall be deemed an abandonment of the application.
- 12.5 County Certified DM/DWBEs who, after a review of their DM/DWBE Certification applications meet the standards of the County SBE Program, shall be automatically registered in the County's Small Business Enterprise Program.

### **SECTION 13 - APPLICATION REVIEW**

Within thirty (30) Days of receipt of the completed application and required supporting documentation, Economic Development staff will determine the applicant businesses eligibility for the program.

**SECTION 14 - APPROVAL OF APPLICATION**

- 14.1 Applicants recommended for approval shall be assigned a registration number and shall be notified immediately by electronic mail.
- 14.2 Registered SBEs shall be listed in the Hillsborough County Small Business Enterprise Directory.
- 14.3 A Registered SBE shall advise the Economic Development Department of any change in its address and/or telephone number within ten (10) Days of such change.

**SECTION 15 – SBE RE-REGISTRATION**

- 15.1 A Registered SBE must re-Register with the County every two (2) years.
- 15.2 The system through the Economic Development Department will send Re-Registration Update alerts ninety (90), forty-five (45), and thirty (30) Days prior to the registration expiration date.
- 15.3 As a prerequisite to re-Registration, an SBE must provide the County with evidence of having completed a total of at least eight (8) hours of business training during the prior two-year period. Attendance at institutions within the State of Florida accredited to offer business-related courses will be accepted. Since the purpose of this requirement is to enhance the SBE's business acumen, the SBE owner, vice president, or senior officer must complete the training.

**SECTION 16 - APPEAL OF DENIAL OF REGISTRATION**

An applicant who has been denied Registration in Hillsborough County's SBE Program shall be notified in writing by the Economic Development Department with the reason(s) for denial stated in such notification. The applicant may request that the denial be reviewed by the Administrative Certification & Registration Review Panel, pursuant to Part II, Section 8 of these Operational Procedures.

Approved by: \_\_\_\_\_  
Lindsey Kimball, Director

## Appendix A DEFINITIONS

Any term defined in this Appendix A shall have the meaning ascribed herein for purposes of these Operational Procedures.

1. Affirmative Action - Remedial steps taken to correct past and present practices of discrimination and their current effects in order to attain equal opportunity.
2. BOCC/Board - Board of County Commissioners of Hillsborough County, Florida.
3. Business/Business Enterprise - Any legal entity, other than a "Joint Venture," which is organized in any form (i.e., sole proprietorship, partnership, corporation, LLC, etc.) to engage in lawful commercial transactions for profit.
4. Business Day(s) –Monday through Friday excluding public holidays.
5. Certification/Certified - The verification of the authenticity of a Minority or Woman-owned Business Enterprise to determine eligibility for participation under the County's DM/DWBE Program and approval of such enterprise for participation in the County's Program..
6. Commercially Useful Business Function – An applicant business shall be currently performing a useful business function in each specialty area(s) being requested for certification, as well as provide good/services to customers other than governmental agencies. The applicant will also be considered to be performing a useful business function when it is responsible for the execution of a distinct element of work of a contract and carrying out its responsibilities in actually performing, managing and supervising the work involved.
7. Commodity/Commodities - Any of the various supplies, materials, goods, merchandise, equipment, and other personal property contracted for by the County. However, commodities purchased for resale are excluded from this definition. Printing of publications shall be considered a commodity when let upon a contract.
8. Bid(s) – The offer and/or quote received from a Business in response to a procurement solicitation issued by the County.
9. Construction - The process of building, altering, repairing, improving, or demolishing any public structure, building, roadway, or other public improvements of any kind to public real property.
10. Consulting Services - Those "professional services," as defined in Florida Statutes, Section 287.055, "Consultant's Competitive Negotiation Act" (CCNA).
11. Contract - All types of County agreements, regardless of what they may be called, for the purchase of Commodities, Consulting Services, Contractual Services, or Construction.

12. Contract Manager at Risk (CM/GC) A sole proprietorship, partnership, corporation or other legal entity that assumes the risk for construction, rehabilitation, alteration, or repair of a facility at a contracted price as a general contractor and provides consultation to the owner regarding construction during and after the design of the facility.
13. Contractual Service(s)/Services - The rendering by a contractor of its time and effort rather than the furnishing of specific Commodities. The term applies only to those services rendered by individuals and firms who are independent contractors, and such services may include, but are not limited to, evaluations; consultations (not covered by the Consultant's Competitive Negotiation Act); maintenance; accounting; legal; security; management systems; management consulting; educational training programs; research and development studies or reports on the findings of consultants engaged thereunder; and professional, technical, and social services. "Contractual Service" does not include any contract for the furnishing of labor or materials for the construction, renovation, repair, modification, or demolition of any facility, building, portion of building, utility, park, parking lot, or structure or other improvement to real property.
14. Construction Contractor - Any person, firm, partnership, corporation, agency or other organization, who in any capacity undertakes or offers to undertake or purports to have the capacity to undertake, or accepts an order or contract to construct, alter, repair, add to, subtract from, or improve any building or other structure, project or improvement or to do any part thereof, including building, plumbing, electrical, mechanical and gas system work, but shall not include an authorized representative of the United States Government or the State, or any political subdivision thereof. Further, the term "Construction Contractor" shall include an individual who undertakes alone to perform a Construction contract.
15. Control – Shall mean that the Minority/Minorities or Woman/Women demonstrate the ability to make unilateral and independent business decisions as needed to guide the future and destiny of the Business enterprise. Additionally, the primary consideration in determining the operational control of the business and the extent to which the Minority/Minorities or Woman/Women actually operates the business will rest upon the unique characteristics of the industry of which the business is a part. The Minority/Minorities or Woman/Women owner must oversee the daily operation of the Business and be perceived by the industry as being in Control of the Firm.
16. County - All references to County or Hillsborough County relate only to functions and responsibilities of the BOCC.
17. Day(s) - One calendar day.
18. Design-Build – A system of contracting under which one entity performs both the architectural/engineering design and Construction. The design-builder has the responsibility for and warrants the design to the owner of the applicable building/structure.
19. DM/DWBE Directory - A compilation of Certified DM/DWBE Businesses retained and published by the County and made available to contractors for use in identifying Subcontractors, material Suppliers, etc.

20. Firm(s) - Any legal entity, other than a "Joint Venture," which is organized in any form (i.e., sole proprietorship, partnership, corporation, LLC, etc.) to engage in lawful commercial transactions for profit.
21. Invitation to Bid - A written solicitation issued by the County for competitive sealed Bids with the title, date, and hour of the public bid opening designated and specifically defining the Commodity, group of Commodities, or services for which Bids are sought. It includes instructions prescribing all conditions for bidding and shall be distributed to all prospective bidders simultaneously. The invitation to bid is used when the County is capable of specifically defining the scope of work for which a Contractual Service or Construction is required or when the agency is capable of establishing precise specifications defining the actual Commodity or group of Commodities required.
22. Joint Venture - An association of two (2) or more persons, partnerships, corporations, or any combination thereof formed to carry on a single business activity which is limited in scope and duration and has complied with all statutory requirements. For the purpose of this Program, only that portion of the services actually performed by Certified DM/DWBE Joint Venturers shall be considered toward DM/DWBE goal attainment.
23. Licensee - A holder of a certificate issued pursuant to Florida Statutes or local Hillsborough County Ordinance, or a person registered pursuant to Florida or local law.
24. Minority Group Members/Minority/Minorities - A lawful, permanent resident of Florida who is:
- a. An African-American - a person having origins in any of the indigenous racial groups of Africa.
  - b. An Hispanic American - a person of Spanish or Portuguese heritage with origins in Spain, Portugal, Mexico, South America, Central America, or the Caribbean, regardless of race.
  - c. An Asian American - a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands, including the Hawaiian Islands prior to 1778.
  - d. A Native American - a person who has origins in any of the Indian Tribes of North American prior to 1835 upon presentation of proper documentation thereof.
  - e. A Woman.
- \*\*\* The above definition of Minority Group Members/Minority/Minorities shall be used and applied for the purpose of certification by the County.
25. Proposal(s) - The offer and/or quote received from a Business in response to a procurement solicitation issued by the County.
26. Registration/Registered - The verification and approval of an application for participation in the County's Small Business Encouragement Program.

27. Request for Proposal(s) - A written solicitation issued by the County for competitive sealed Proposals with the title, date, and hour of the public opening designated. The request for proposals is used when the County is capable of specifically defining the scope of work for which the Commodity, group of Commodities, Construction, Consulting Services, or Contractual Services are required and when the County is requesting that a qualified offeror propose to meet the specifications of the solicitation document. A request for proposals includes, but is not limited to, general information, applicable laws and rules, functional or general specifications, statement of work, proposal instructions, and evaluation criteria. Requests for proposals shall state the relative importance of price and any other evaluation criteria.
28. Shall/May - "shall" is mandatory, whereas "may" is permissive.
29. Subcontractor(s) - A Business Enterprise that contracts to fulfill a part or the whole of a contract made by a principal contractor.
30. Supplier(s) - A Business that performs a Commercially-Useful Business Function within normal industry practices. A bona fide supplier is an established Business that maintains a store and an inventory, sells goods to the public or a number of contractors, and carries, packages, and ships goods manufactured by a number of different companies. To be a "supplier" or "regular dealer," the Business must engage in, as its principal business, and in its own name, the purchases and sale of the products in question. A supplier of bulk items such as steel, cement, gravel, stone and petroleum products need not keep such products in stock, if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or suppliers within the meaning of this Section.
31. Woman/Women – an adult female human.